

ENTERED

October 20, 2021

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION

A.V., JR.,

Plaintiff,

v.

ARNOLD HAYDEN,

Defendant.

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Civil Action No. 6:21-CV-00034

ORDER ACCEPTING MEMORANDUM AND RECOMMENDATION

Before the Court is the September 1, 2021 Memorandum and Recommendation ("M&R") signed by Magistrate Judge Julie K. Hampton. (Dkt. No. 6). In the M&R, Magistrate Judge Hampton *sua sponte* recommends dismissal of *pro se* Plaintiff A.V., Jr.'s prisoner civil rights case under Federal Rule of Civil Procedure 41(b).¹ Specifically, Magistrate Judge Hampton recommends dismissal because A.V. failed to comply with: (1) the Notice of Deficient Pleading, which instructed him to pay the filing fee or submit a completed application to proceed *in forma pauperis* by July 20, 2021; and (2) the Order to Show Cause, which instructed him to show cause as to why his lawsuit should not be dismissed for want of prosecution by August 23, 2021. (Dkt. No. 4); (Dkt. No. 5).

A.V. was provided proper notice and the opportunity to object to the M&R. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). A.V. did not object. As a result, review is

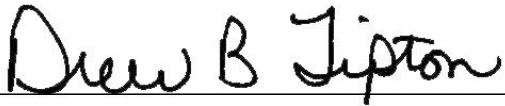
¹ Federal Rule of Civil Procedure 41(b) provides in relevant part: "If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it." A district court may *sua sponte* dismiss a case under Rule 41(b). *Nottingham v. Warden, Bill Clements Unit*, 837 F.3d 438, 440 (5th Cir. 2016).

straightforward: plain error. *Guillory v. PPG Indus., Inc.*, 434 F.3d 303, 308 (5th Cir. 2005).

No plain error appears. Accordingly, the Court **ACCEPTS** the M&R as the Court's Memorandum Opinion and Order. The Court **DISMISSES WITHOUT PREJUDICE** Plaintiff A.V., Jr.'s case under Federal Rule of Civil Procedure 41(b).

It is SO ORDERED.

Signed on October 19, 2021.



DREW B. TIPTON
UNITED STATES DISTRICT JUDGE